



**NATIONAL SHOOTING SPORTS FOUNDATION, INC.**

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**JAKE McGUIGAN**  
DIRECTOR, GOVERNMENT  
RELATIONS/STATE AFFAIRS

March 14, 2013

Public Safety and Security Committee  
Legislative Office Building  
Room 2C  
Hartford, CT 06106

Position: Oppose

**Re: Opposition to SB 506 Universal Background Checks on Private Transfers**

Dear Chairs Hartley and Dargen and Members of the Committee:

We at the National Shooting Sports Foundation (NSSF) have been deeply shaken and saddened by the horrible events that took place in Newtown, Connecticut, our headquarters and home. In a small community there are not many degrees of separation and so, not surprisingly, we had family, friends and acquaintances that were affected. Our hearts and prayers go out to the families and the victims of this terrible tragedy.

As the 8,325 member trade association for America's firearms, ammunition, hunting and shooting sports industry, NSSF is ready to participate in any federal or other commission on public safety and firearms to address the many issues that are part of this complex situation. We share the goal of all Americans in wanting to find real and effective solutions that will make our children and communities safer, while at the same time respecting and safeguarding our constitutional rights.

The so-called "universal background check" bill (SB 506) is one of the bills of particular concern to Connecticut firearms retailers, most of whom are hard working, tax paying, jobs creating small businesses. SB 506 requires federally licensed firearms retailers to perform background checks for the private transfers of firearms unrelated to our businesses. This legislation will not deter criminals who are determined to obtain firearms, e.g. most guns used in crime are stolen. We are deeply concerned, however, by the significant financial and regulatory burdens and legal consequences this bill will have on our businesses. It is clear the legislature never bothered to ask us retailers how this proposal would impact our businesses, or they were wholly indifferent to our concerns.

Requiring retailers to conduct background checks will have a significant impact on our ability to service our actual customers. We can think of no other government mandate which requires a business to provide a service on behalf of a non-paying individual. By definition, these private transferors are not entering our stores interested in buying our products. They will only be in our stores to take advantage of our designation as a federally licensed dealer.

Based on the experience of licensed firearms retailers in the few states that require retailers to conduct background checks on the private transfer of firearms between individuals, we know requiring universal background checks will impose on federally licensed retailers significant increased regulatory burdens,

tremendous additional costs, logistical nightmares, unacceptably lengthy delays in processing NICS checks, unprecedented liability exposure and other additional unintended consequences.

Further, if universal background checks became law, it would be difficult to measure compliance without mandatory national firearm registration, a policy broadly opposed by law-abiding citizens and retailers.

### **Increased Cost to Businesses**

Before any retailer mandate is enacted, consider the following:

- The universal background check is a pure cost to the retailer, and most of us are small “mom-and-pop” businesses. As retailers, we would lose a significant amount of money generating the legally required recordkeeping entries, maintaining those records for decades for law enforcement, and performing the background check on a firearm we are not selling and for which we realize no profit. A government-established fee of \$10.00 is woefully inadequate.
- Licensed retailers would be forced to use paid staff hours or to hire additional staff and pay for additional infrastructure to accommodate such transactions, including, but not limited to additional surveillance equipment, secure firearm storage, parking, IT infrastructure, and acquisition and distribution (A&D) records. Staff conducting background checks on private party transfers will not be able to serve paying customers, many of whom will leave our stores rather than wait, resulting in lost sales.

### **Liability Risks**

- In addition to the cost of providing this government function, the liability a retailer has in such transactions (e.g., retaining additional ATF Forms 4473 subject to inspections and litigation for 20 years; maintaining A&D records for the life of the business) would require a significant increase in compliance efforts. Any errors would be cited as violations by ATF against the retailer. A single violation of the Gun Control Act or the ATF regulations is sufficient to revoke our license. Imagine losing your livelihood for a record-keeping error for a product you didn’t even sell.
- We would be forced to handle firearms that we are not familiar with because we do not stock them. It would no longer be the case that every firearm we now acquire, whether new or used, is a firearm that we want to acquire.
- Some “used” firearms in commerce may have been modified by their owners and may have missing markings, making proper firearm acquisition and disposition records difficult for retailers to achieve a compliant transfer.
- The licensed retailer would also be subject to product liability and other lawsuits if the transferred firearm is alleged to be defective. Insurance coverage in those cases will likely be unavailable to us since we did not sell the firearm. Imagine being sued over an accident involving a firearm you didn’t sell and having no insurance coverage.
- Federal law requires us as licensed retailers to provide a “secure gun storage or safety device,” typically a gun lock, when we transfer any handgun. Who will pay for the cost of the gun lock?
- If the firearm being transferred is in a retailer’s possession, custody and control while a “delayed” NICS response is being resolved (up to three business days), the retailer would face additional liability over claims that the firearm was altered or damaged while in the retailer’s possession.

- There are significant safety concerns presented by a massive influx of "private party" firearms entering a carefully controlled retail establishment. For example, in California, persons have entered large retailers with a firearm and walked through the store, e.g., past the shoe department, to get to the sporting goods section in order to conduct a private party background check.

### **Logistical Nightmare**

- In the event a buyer is denied based on the background check results, it is unclear how the transaction should be handled. Would we then be required to run a background check on the seller before returning the firearm to the seller? If the firearm is maintained overnight by the licensed retailer, federal law would require the retailer to conduct a background check and have them complete a Form 4473 in order to return the firearm to the private party seller.
- What is a licensed retailer to do in the event of a "double denial" (both the private party buyer and seller are denied). This has happened in California. How would such a transaction be noted on ATF Form 4473?
- As a Point of Contact state, Connecticut is already overwhelmed with retail transactions. The Connecticut system is already overwhelmed in processing background checks. Adding a massive influx in transactions would further tax the system to the point of potential collapse.
- Additionally, there remains uncertainty about how to best handle temporary transactions, such as the loan of a firearm for a hunting trip or at the shooting range.

All of these concerns aside, the firearms industry contributes over \$1.7 billion in economic activity to Connecticut, creating 7,340 jobs paying \$119 million in state taxes. In these difficult economic times, the firearms industry is one of the few industries that continue to create jobs.

We ask you to OPPOSE the so-called "universal background check" bill (SB 506) because it places costly and unreasonable burdens on Connecticut's retailers, infringes upon our Second Amendment rights while failing to make Connecticut safer, and cannot be effective without mandatory "universal" firearms registration – a policy universally opposed by firearms owners.

Sincerely,



Jake McGuigan